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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

E-FILED - 2/8/06

UNITED STATES OF AMERICA,
Plaintiff,
v.
OSCAR MARTINEZ,
aka janeiro, aka xraided, aka sailorboy,
Defendant.

No. CR 05-00734-RMW

STIPULATION REGARDING
EXCLUDABLE TIME AND
ORDER

It is hereby stipulated and agreed between defendant Oscar Martinez, and his counsel Mark Eibert, and the United States as follows:

This matter was set for a status conference on February 13, 2006 at 9:00 a.m. In this copyright infringement case, the defense needs more time to prepare, review discovery previously provided, including a substantial amount of digital evidence, and research legal and sentencing issues. The parties have been discussing plea and sentencing issues. In particular, the defense requests more time to assess valuation issues in this case and to review forfeiture issues before arriving at a final plea decision.

The parties stipulate and move the Court to exclude time under the Speedy Trial Act from the

February 13, 2006, until February 27, 2006, because the parties believe that the ends of justice served by the granting of such a continuance outweigh the best interests of the public and the defendant in a speedy trial, particularly since reasonable time is needed for the defense to prepare for pretrial and trial matters, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii). The parties further stipulate that time may be excluded for reasonable time for defense preparation, since the failure to exclude time would deny counsel for the defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv). Complicating a review of the discovery and issues in this case is the fact that the defendant resides in Southern California. Further time will allow for necessary discussions on the issues in this case.

So stipulated.

Dated: February __, 2006

KEVIN V. RYAN
United States Attorney

MARK L. KROTOSKI
Assistant United States Attorney

So stipulated.

Dated: February __, 2006

MARK EIBERT
Attorney for Defendant Martinez

ORDER

Based upon the foregoing Stipulation and good cause appearing therefor,

IT IS HEREBY ORDERED that the status conference set for February 13, 2006 at 9:00 a.m. for defendant Martinez shall be continued to February 27, 2006 at 9:00 a.m.

IT IS FURTHER ORDERED that the time between February 13, 2006, until February 27, 2006 shall be excluded from the computation period within which the trial must commence, for the reasons and based upon the statutory provisions set forth by the parties in this Stipulation, including that time is needed for effective defense preparation.. The Court finds that the ends of justice outweigh the interests of the public and the parties in a speedier trial under 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii) (complexity), 3161(h)(8)(B)(iv) (reasonable time necessary for effective preparation taking into account the exercise of due diligence).

DATED: February 8, 2006

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge